IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITIONL NO. 2696 OF 2005

Ramnik Smruthi Co-op. Housing Society Ltd. ... Petitioner

V/s

Anil Premji Haria ... Respondent

Mr. S. Shetty i/by M.P. Vashi for the petitioner.

None for the respondent.

CORAM: P. V. KAKADE, J.

DATED: 16TH NOV., 2005

P.C.:

1. Heard learned counsel for the petitioner.

2. The petitioner is the original respondent whereas the respondent No.1 is the original appellant in the appeal filed before the Divisional Commissioner, Bombay, which is pending adjudication. The said appeal is filed with regard to the dispute of property which is situated on plot of land bearing CTS No. 67, owner of which is one Smt. Laxmiben Ramnik Shah and which has been declared as a slum under the provisions of Maharashtra Slum Areas (Improvement-Clearance & Redevelopment Act),

1971. It is alleged that the respondent has entered into an agreement with the third respondent for permanent alternate accommodation in new building under slum rehabilitation scheme. Since the first respondent refused to vacate his shop irrespective of an agreement signed by him, a notice has been served upon him by the third respondent. Due to failure on the part of the first respondent to vacate his shop, again notice was issued twice upon him. Due to non-compliance of the respondent No.1 to the notice served upon him, the Deputy Collector ordered and directed the 1st respondent to vacate the said shop. An ex-parte order of status-quo was passed by the Divisional Commissioner on 29.9.2005 in the appeal filed before him by the 1st respondent.

It is the grievance of the petitioner that the matter came up for hearing before the Divisional Commissioner and inspite of presence of petitioner, the matter was adjourned to 22.10.2005 and till then an ex-parte order was continued and, therefore, the question is raised in this petition as to whether any substantial ground was made out by the first respondent for grant of an order of status-quo without giving any reasons.

3. In this regard, without further elaboration, I must note that the matter is pending before the Divisional Commissioner who is seized with the matter and merits of the case and, therefore, it would not be just and proper for this Court to go into the merits of the matter which is pending before the concerned authority. The grievance of the petitioner is that status-quo order was granted without giving any reasons, however, it was obvious that pending adjudication of the appeal, status-quo was directed to be maintained and I do not see any reason why such order should be interfered with.

4. In view of these aspects, there is no merit in the petition and, therefore, it deserves to be disposed of with certain direction.

Hence, it is directed that the Divisional Commissioner shall dispose of the appeal bearing No. 199 of 2005 after hearing both parties, within six weeks from the date of this order.

With this direction, the petition stands disposed of.

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